Rail Delivery Group

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Response to:

Office of Rail and Road

PR18 Reviews of Schedules 4 and 8 of track access contracts

Date: 29th January 2016

Rail Delivery Group response to Office of Rail and Road letter on PR18 Reviews of Schedules 4 and 8 of track access contracts

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Introduction

The Rail Delivery Group (RDG) was established in May 2011. Its purpose is to enable Network Rail and train and freight operating companies to succeed by delivering better services for their customers. This ultimately benefits taxpayers and the economy.

Our work is focused on four transformational portfolios: enable improvement in today's railway, transform customer experience, inform industry reform to enable excellence, and plan for tomorrow's railway. This activity is supported by communications and engagement with stakeholders, and improvements in how the RDG is organised and operates.

A key role for RDG is to lead discussions with train operators and Network Rail to confront difficult issues by identifying where there are areas of agreement and also where there is a range of views. RDG's work can improve the quality of industry's input into policymakers' decisions.

ORR's consultation on Schedules 4 and 8 falls within the remit of RDG's 'inform industry reform to enable excellence' portfolio. This portfolio is concerned with evolving the economic, organisational and contractual structures of the industry, so that they enable members to deliver excellence in the railway.

RDG's overall strategic aim, for its industry reform portfolio, is to make changes, or inform government and/or regulatory decision makers, to enable industry parties to collectively deliver whole-industry outcomes through a framework that focuses all parties much more clearly on end-user interests, in a way that:

- is simple, clear and understandable;
- has a clearly articulated purpose with objectives and incentives that align through all organisations;
- improves the performance of the railway for customers and taxpayers - punctuality, connectivity, frequency, capacity, value for money; and
- provides a sustainable business environment for operators and investors.

1. Overview

We welcome the opportunity to respond to ORR's consultation 'PR18 Reviews of Schedules 4 and 8 of track access contracts'.

This response sets out some high-level observations on the possessions (Schedule 4) and performance (Schedule 8) regimes, drawing on the findings of the recently concluded RDG Review of Charges project, and the ongoing National Task Force (NTF) work on performance metrics.

RDG's work was developed to cover fundamental issues in relation to the charges and incentives regime. Therefore, in this letter we have not provided detailed responses to every issue raised in ORR's letter. However, in Annex A, we have highlighted the aspects of RDG's work that may be relevant to the specific areas of the regimes, where ORR has sought input. ORR will also, no doubt, receive responses from our members on the detailed points it has raised.

We hope that ORR gives high regard to industry's views and that it builds upon RDG's work referenced in this response. In particular, we hope that ORR takes careful note of the areas where the industry has identified the most significant issues, and focuses its resources in these areas.

The possessions and performance regimes are important parts of the rail industry's regulatory framework. The current arrangements lead to significant money flows between train operators and Network Rail.

A key issue for both regimes is how they support Network Rail and train operators in working together to improve punctuality and possessions planning to deliver value for money and a better experience for customers.

The main points raised in this response are that:

1. ORR should build on the work that the industry has carried out through RDG's Review of Charges work programme.
2. ORR should review the possessions and performance regimes alongside the structure of charges.
3. At this early stage of PR18, it is important to be clear about the purpose of the possessions and performance regimes before considering the detailed aspects of the regimes.
4. The possessions and performance regimes should align with other industry arrangements.
5. ORR's reviews of the possessions and performance regimes should align with the industry's work on punctuality measures.

The rest of this response builds on the key points highlighted, above.

We recommend that ORR sets up an industry group to work through the issues on the possessions and performance regimes. We suggest that this commences in early 2016. RDG would be happy to facilitate this. The first role of that group should be to develop a proposed purpose for the possessions and performance regimes in CP6.

2. RDG's Review of Charges

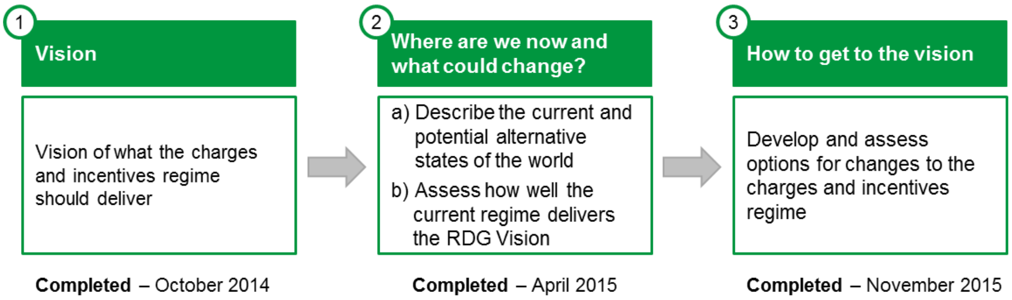
Background

RDG's Review of Charges was a work programme, carried out over almost two years, to set out the industry's views on the charges and incentives regime for the use of Network Rail's infrastructure. The review included the possessions and performance regimes.

The aim of the project was to inform PR18 (and future reviews) to enable ORR to focus its resources on the areas of the charges and incentives regime where we have identified the most significant issues.

The review was made up of three phases of work and involved around 100 stakeholders from across the GB rail industry. It started in early 2014 and concluded in November 2015.

Figure 1: High level plan for RDG Review of Charges



The findings of RDG's Review of Charges are intended to reflect the views of RDG's membership, i.e. passenger operators, freight operators and Network Rail. However, our work has also been informed by governments (Department for Transport (DfT), Transport Scotland and Welsh Government). ORR has also been involved in this project, as an observer. We have sought to provide clarity on areas where the industry has shared views and also where there are legitimate differences of views.

RDG's Review of Charges work is set out in a number of detailed reports that were published on RDG's website and shared with ORR as each phase of work concluded. However, we have produced a summary report[1] to help readers access the findings of RDG's work.

How RDG's work is relevant for ORR's consultation on the possessions and performance regimes

As part of RDG's Review of Charges, we assessed how well the current charges and incentives regime delivers the RDG vision for charges and incentives ('the RDG Vision').

Our assessment of the current charges and incentives regime was developed, primarily, through a series of industry workshops. Each workshop covered a specific aspect (or theme) of the charges and incentives regime: running costs; customer experience; possessions; performance; use of capacity (existing and new); and coherence of the regime and alignment of incentives[2].

ORR's consultation letter seeks views on the effectiveness of the current possessions and

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[1] RDG's Review of Charges summary report and all other reports from the project are available at: http://raildeliverygroup.com/what-we-do/our-work-programme/contractual-regulatory-reform/review-of-charges.html.

[2] RDG's assessment report is available at: http://raildeliverygroup.com/files/Publications/2015-05_rdg_roc_assessment_of_current_regime.pdf.

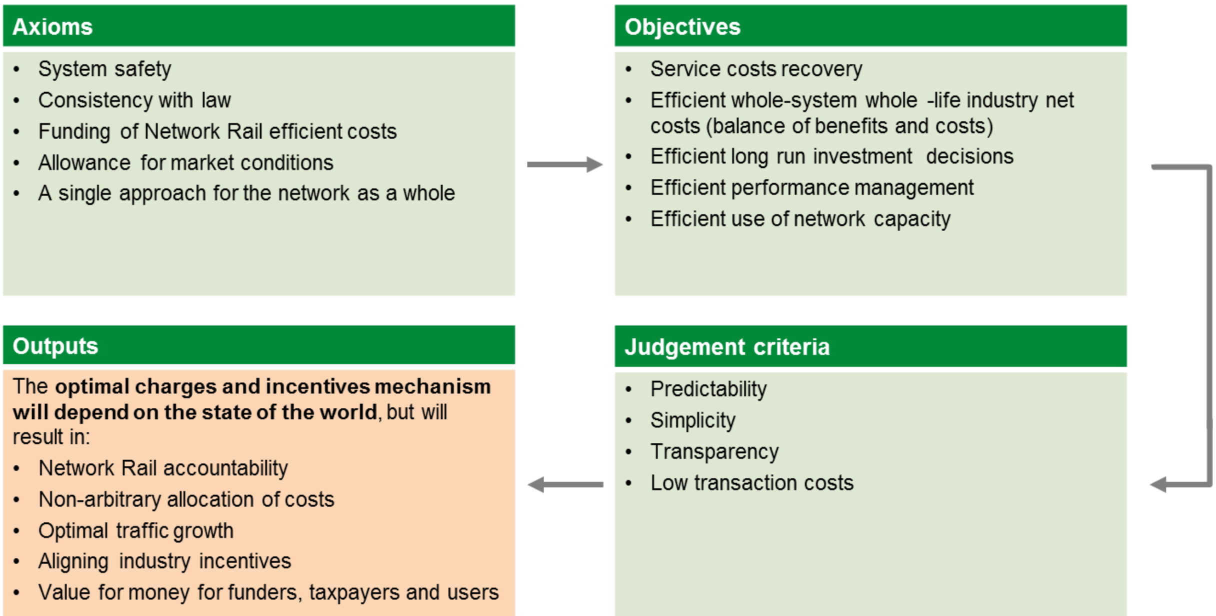
performance regimes. Therefore, in this response we have drawn, mainly, on our assessments of these two elements of the charges and incentives regime.

RDG vision for charges and incentives

RDG's Vision articulates what charges and incentives should deliver over the next 15 years. It was the product of a number of workshops that brought together views from a wide range of industry stakeholders.

RDG's Vision formed the basis of our assessment of the current regime, and also provided a framework to assess options for change. Therefore, the majority of the principles set out in Figure 2, below, are relevant to the possessions and performance regime, such as 'a single approach for the network as a whole', 'low transaction costs', and 'efficient performance management'.

Figure 2: Summary of RDG's vision for charges and incentives



Overarching findings from our assessment of the current charges and incentives regime

The findings of RDG's work that relate specifically to the possessions and performance regimes are summarised in the next section. However, there are a number of overarching points, raised during RDG's assessment, which cut across all aspects of the regime:

- the industry should have a broader and clearer understanding of the purpose and aim of the regime;
- the industry should be realistic about the limits of what the regime can achieve and how closely it can be aligned with the 'ideal' regime;
- the regime should align with: other parts of the industry's regulatory and contractual framework; public transport policies; and the needs of customers (passenger and freight users);
- the regime needs to provide stability to allow for business planning and industry investments;
- there were aspects of the current regime that the industry thought should be retained. For example, aspects of the performance and possessions regimes, e.g. the liquidated sums approach to calculating payments and Star model were considered to be broadly aligned with the RDG Vision;

- however, the industry also identified a number of gaps between the RDG Vision and the current regime. For example, the Capacity Charge, aspects of the performance regime (e.g. delay attribution) and aspects of the possessions regime (e.g. cost compensation) were considered to be priorities for development; and
- when proposing changes to the regime, ORR should:
  - be aware of the parts of the regime that are affected by other industry arrangements, e.g. franchise agreements, and reflect this in the regime, i.e. do not assume that changes impacts all parties in the same way.
  - take into account those parts of the industry that compete with other modes, e.g. road and air; and
  - align any additional charges and incentives with the rest of the regime, i.e. avoid 'bolt-ons' to the regime.

Findings specific to the possessions and performance regimes

RDG's assessment initially focused on identifying the features of ideal possessions and performance regimes, rather than considering detailed issues with Schedules 4 and 8 of track access contracts. We did this to avoid getting caught up on detailed aspects of the existing contractual arrangements. As a result, some of the features that are set out below touch on issues that are wider than the current provisions in Schedules 4 and 8. For example, RDG's discussion on the performance regime also included the approach to delay attribution, the role of the Capacity Charge, and performance metrics. We think that it is important to consider how all of these components of the performance regime work together, and not just consider Schedule 8 in isolation.

Possessions regime (Schedule 4)

There was general consensus, amongst industry stakeholders, that the possessions regime should:

- compensate operators for the financial impacts of a planned possession;
- be a liquidated sums regime, except for long possessions;
- be financially neutral if possession activity is carried out efficiently;
- incentivise the industry to minimise the impact of possessions on end-users;
- facilitate the efficient use of possessions by all parties;
- incentivise operators to provide Network Rail with the access it requires to deliver engineering works;
- take account of the financial impact on all industry parties in taking possessions; and
- be sufficiently flexible to respond to unexpected end-user demand.

In Annex A of this letter, we provide further explanation of the features, above, and set out how they relate to the aspects of Schedule 4 discussed in Annex 3 of ORR's consultation letter. We also identify areas where there was no industry consensus on a particular issue.

Whilst the features, above, do not represent an industry agreed purpose for the possessions regime, they provide the basis for ORR to work with the industry to define the purpose early in PR18.

There was also general consensus that the current possessions regime did not:

- compensate operators fully, through Schedule 4 payments, for the costs they incur when Network Rail takes a possession;
- enable the industry to understand the impact of one possession strategy over another, in terms of costs and the impact on end-users. In addition, this impact is not considered at a sufficiently early stage of planning projects; and
- place sufficient incentives on Network Rail to consider the costs of other industry parties when undertaking possessions.

We would like to work with ORR, during PR18, to seek to address the gaps that are discussed above.

Performance regime (Schedule 8)

There was general consensus, amongst industry stakeholders, that the performance regime should:

- be a liquidated sums compensation regime;
- be the sole remedy;
- be coherent and aligned at every stage from end-users to funders;
- reflect end-user needs;
- encourage joint industry working to optimise whole-industry performance;
- facilitate trade-offs between performance, traffic volumes, and cost;
- facilitate accurate and efficient attribution of the root causes of delays and cancellations;
- take account of the increased likelihood of delay of running an additional train on the network;
- be effective at all levels of performance.

Whilst the features, above, do not represent an industry agreed purpose for the performance regime, they provide the basis for ORR to work with the industry to define the purpose early in PR18.

In Annex A of this letter, we provide further explanation of the features, above, and set out how they relate to the aspects of Schedule 8 discussed in Annex 2 of ORR's consultation letter. We also identify areas where there was no industry consensus on a particular issue. For example, whilst it was explored in more detail later in RDG's review, there was no consensus amongst RDG members about whether the performance regime should recover end-user compensation in addition to operators' long term revenue loss.

There was also general consensus that the current performance regime did not:

- fully align with other industry metrics used to measure performance;
- measure the full impact of delay on a passenger's end-to-end journey (e.g. which may include an interchange), since the performance regime uses the impact of delays and cancellations on specific services to attribute lateness, and not on end-user journeys;

- encourage joint working due to the set-up of delay attribution mechanisms, e.g. an operator may be penalised, where it helps another operator to recover their service, since they in-turn incur their own delay; and
- enable sufficient industry understanding of the trade-offs between performance, traffic volumes, and costs.

We would like to work with ORR, during PR18, to seek to address the gaps that are discussed above.

3. Industry's work on performance metrics for passenger services

Performance benchmarks are used in Schedule 8 and contribute to the calculation of payments between train operators and Network Rail. Currently, the metrics used for benchmarks in the passenger regime are based on lateness of train services, which are also linked to Network Rail's regulatory performance targets[3].

Given the link between Schedule 8 for passenger operators and train performance metrics, it is important that the work on performance planning, currently being carried out by the industry, is joined up with ORR's PR18 review of the possessions and performance regimes.

As ORR recognises in its letter, NTF is sponsoring the industry's work on performance planning for the next five-year control period, which starts April 2019. The aim is to create metrics that:

- encourage the right behaviours from all parties;
- are defendable in public;
- disincentivise perverse behaviours;
- are fair to industry;
- allow funders to accurately state what they want; and
- are easily economically collected.

There are three stages of this work:

1. Establishing appropriate metrics to measure passenger performance.
2. Developing a performance trajectory up to 2024, i.e. the end of CP6.
3. Understanding any resulting financial flows within the industry.

The focus of NTF's work to date has been on establishing appropriate metrics. The aim of that first phase is to create metrics, categorised into three areas, which can improve the provision of information to the public:

1. Passenger experience – using average passenger lateness (APL)
2. Reliability – a measure for 'bad days'
3. On time – using right time at all stations.

The proposed metrics will be trialled and assessed in CP5, to allow introduction at the start of CP6. Although the main focus and purpose of the proposed metrics will relate to the regulation and operation of the railway, an industry performance publication strategy will provide the public with access to more consumable information than they have now. This, coupled with the introduction of a "My Journey" application, will enable customers to access historic personalised performance data and allow the consideration of historic performance when planning future journeys.

At this early stage in NTF's work, it is not appropriate to draw any detailed conclusions on the potential impacts on the possessions and performance regimes. This is consistent with the view set out earlier in our response that it is important to be clear about the purpose of these regimes before considering and drawing conclusions about the detailed aspects of the regimes.

[3] These include Cancellations and Significant Lateness (CaSL) and Public Performance Measure (PPM).

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Annex A: Aspects of RDG's Review of Charges work that is relevant to the detailed topics raised in ORR's letter

RDG considers that at this early stage of PR18, it is important to be clear about the **purpose** of the possessions and performance regimes before considering detailed issues.

RDG's work was developed to cover fundamental issues in relation to the charges and incentives regime. Therefore, in this response we have not provided detailed responses to every issue raised in ORR's letter. However, in this annex, we have highlighted the aspects of RDG's work that may be relevant to the specific areas of the regimes where ORR has sought input.

Below, we refer ORR to work completed as part of Phase 2 of RDG's Review of Charges[4] with references such as 'Feature 7.2'. Some features, below, may apply to more than one category. However, we only presented the features under the topics where it is most relevant.

For ease of reference, below, we have used the same topic numbers as ORR used in its consultation letter.

Possessions regime

1. The purpose of Schedule 4

RDG considers that it is important to be clear about the **purpose** of the possessions regime before considering the detailed aspects of it.

Whilst the RDG-agreed features of the possessions regime, set out in the Section 3 of this response, do not represent an industry agreed purpose for the regime, we consider that they provide the basis for ORR to work with the industry to define the purpose early in PR18.

2. The level of compensation; 3. Notification discount factors; and 5.Sustained planned disruption (SPD)

During RDG's work, there was **general consensus** that the regime should:

- *Compensate operators for the financial impacts of a planned possessions (Feature 7.1)*

  When operators cannot access the network because of planned Network Rail engineering works, operators should be compensated, based on the financial impact of a possession. Compensation should cover the loss of business on the day of the possession, alternative service provision, and the long-run impact on their businesses.

- *Be a liquidated sums regime, except for long possessions (Feature 7.2)*

  A liquidated sums regime, i.e. a formulaic approach to calculating compensation, will help to minimise transaction costs associated with providing compensation as it should be relatively quick and straightforward to administer.

  However, where Network Rail takes long possessions, operators should be able to seek compensation based on a 'claims-based' or 'bespoke' approach, since liquidated sums may not sufficiently compensate parties for the financial impact of a possession This reflects that long possessions are less frequent and may have more variable impacts on operators. For these long possessions, compensation based on

[4] RDG's assessment report is available at: http://raildeliverygroup.com/files/Publications/2015-05_rdg_roc_assessment_of_current_regime.pdf.

liquidated sums should act as a minimum level of compensation for operators.

- *Take account of the financial impact on all industry parties in taking possessions (Feature 7.7)*

  The regime should consider the financial impact of taking a possession on all industry parties by reflecting the costs and lost revenues that other parties bear. When taking account of the financial impact, it is important to consider the possessions strategy as a whole, e.g. blockade versus a number of short possessions.

However, there was **no consensus** amongst industry representatives that the regime should:

- *Take account of the indirect impacts of possessions on local communities (Feature 7.9)*

  There was a discussion as to whether the regime should take account of the indirect impact that possessions have on local communities. For example the impact on trade in communities or rural communities, which rely on the network, due to insufficient alternative services (e.g. buses). For the avoidance of doubt it was considered that this feature need not result in payments either to operators or local communities.

  A slight minority, across all types of organisation, thought that whilst the indirect impacts of possessions should be considered when making decisions, they should not explicitly be linked to the regime. This is because of the additional complexity that would need to be introduced to the regime.

4. The Access Charges Supplement

During RDG's work, there was **general consensus** that the regime should:

- *Be financially neutral if possession activity is carried out efficiently (Feature 7.3)*

  Network Rail should not over- or under-recover the financial impact of planned disruption to operators, where possessions are undertaken in an efficient manner. Similarly, operators should not on average, over- or under-recover their costs through the possessions regime, provided they provide an efficient level of alternative service provision.

  Options for improving the Access Charges Supplement (ACS) were considered as part of Phase 3 of RDG's Review of Charges. However, some operators questioned whether the possessions regime needed an ACS at all.

6. Interaction with regulated outputs

During RDG's work, there was **general consensus** that the regime should:

- *Facilitate the efficient use of possessions by all parties (Feature 7.5)*

  The regime should allow the industry to maximise the output from each possession, while taking account of the impact of the possession on different end-users.

- *Incentivise operators to provide Network Rail with the access it requires to deliver engineering works (Feature 7.6)*

  This should support Network Rail in delivering works in a timely manner and at minimum cost. However, where there would be significant adverse effects on end-users, Network Rail may agree with operators to take possessions at alternatives times which do not minimise 'financial' costs.

- *Facilitate the delivery of industry outputs and aims over both the short and long term (4.21)*

  The regime should, at a minimum, not prevent the delivery of the industry's short term and long term outputs and aims. Whilst parts of the charges and incentives regime may be more focused on the long term outputs, e.g. funding enhancement projects, this should not prevent the delivery of day-to-day outputs, e.g. punctuality of existing rail services.

7. Perverse incentives and unintended consequences

During RDG's work, there was **general consensus** that the regime should:

- *First* do no harm, i.e. be clear about how any changes will improve the current situation for the industry as a whole (Feature 4.9)

  Any changes made to the regime should improve the current situation for the industry as a whole. This does not preclude changes resulting in some industry parties being disadvantaged. However, to the greatest extent possible, these instances should be minimised.

- *Work in both expanding and shrinking markets (Feature 4.16)*

  The incentives contained within the regime should work in the way intended regardless of if parts of the industry are expanding or shrinking.

- *Not be overly sensitive to relatively small changes in industry outputs (Feature 4.19)*

  It is not favourable to have a regime that is highly geared, i.e. results in significant differences in financial payments from small changes in industry outcomes. For example, a small change in possessions plans should not lead to significant changes to payments between Network Rail and train operators.

8. Other aspects of the regime

During RDG's work, there was **general consensus** that the regime should:

- *Be sufficiently flexible to respond to unexpected end-user demand (Feature 7.8)*

  Possessions can be planned years in advance, while major events, e.g. sporting events, which can trigger unexpected end-user demand, typically have a shorter planning horizon, e.g. months. The possessions regime should be sufficiently flexible to allow the industry to respond to these situations. When taking these actions, no industry party should be unduly penalised due to these events which are outside of their control.

- *Incentivise the industry to minimise the impact of possessions on end-users (Feature 7.4)*

  The regime should consider the impact on end-users. For example, it could consider: the notice period, length, and frequency of a possession; the number of end-users impacted, alternative service provision options, e.g. availability of diversionary routes; and timing of the possession, e.g. extended overnight access versus weekend work.

  The impact on end-users may be greater than the disruption of an individual service, since their end-to-end journey may use more than one rail service. It should be noted that the impact of possessions on end-users may vary, depending on their needs.

Performance regime

1. The purpose of Schedule 8

RDG considers that it is important to be clear about the **purpose** of the performance regime before considering the detailed aspects of it.

Whilst the RDG-agreed features of the performance regime, set out in the Section 3 of this response, do not represent an industry agreed purpose for the regime, we consider that they provide the basis for ORR to work with the industry to define the purpose early in PR18.

2. Network Rail payment rates; 3. Sustained Poor Performance (SPP); 4. Operator payment rates and the star model; and 7. Treatment of cancellations

During RDG's work, there was **general consensus** that the regime should:

- *Be the sole remedy (Feature 8.6)*

  The regime should be the sole remedy for all industry parties, i.e. that the regime should be the default mechanism for providing compensation to Network Rail and all train operators for unplanned disruption. This should minimise transaction costs, since it will not require parties to draft bilateral agreements and / or allow bilateral litigation. However, the regime should provide flexibility for Network Rail and operators to agree bespoke performance regimes, when required.

- *Be a liquidated sums compensation regime (Feature 8.9)*

  The regime should use a formulaic approach, i.e. liquidated sums, to calculate the payments to industry parties, associated with performance, to minimise transactions costs.

However, there was **no consensus** amongst industry representatives that the regime should:

- *Recover end-user compensation and operators' long term revenue loss (Feature 8.12)*

  There was no clear consensus about the types of losses that should be captured in compensation payments. Some participants thought that the regime should only recover long-term revenue losses, as franchise agreements already include provisions for passenger compensation. However, others considered that the regime should also recover short-term financial impacts of end-user compensation (e.g. Delay Repay) so that there is a clearer link between the performance regime and passengers.

  The option of including passenger compensation within the performance regime was considered as part of Phase 3 of RDG's Review of Charges.

- *Reflect the socioeconomic impacts of unplanned disruption (Feature 8.13)*

  Some participants considered that some of the non-financial impacts of delays and cancellations should be included in the regime (e.g. the impact on businesses) so that the full impact of disruption was included in the performance regime. However, others considered that it would result in compensation payments to parties that were greater than the financial impact that they experience.

3. Network Rail benchmarks; and 6. Operator benchmarks

During RDG's work, there was **general consensus** that the regime should:

- *Take account of the increased likelihood of delay of running an additional train on the network (Feature 8.7)*

  The regime should reflect that as the network gets busier, the impact of unplanned disruption is likely to increase.

- *Facilitate all parties within the industry to 'do the right thing' and work together (Feature 4.13)*

  The regime should not act as a barrier to the industry 'doing the right thing' for its end-users and should allow parties to work together to deliver improved outcomes for end-users.

  For example, freight operators considered that the approach to setting freight performance benchmarks should encourage operators to work with Network Rail to improve performance in the long term. Some freight operators thought that the approach to setting CP5 freight operator benchmarks penalised them for improving performance in the previous control period.

8. Liability caps

RDG's work did not cover this specific issue in its work. However, we are happy to work with ORR to understand the industry's views on this area of the regime.

9. Interaction with regulated outputs and franchise obligations

During RDG's work, there was **general consensus** that the regime should:

- *Be coherent and aligned at every stage from end-users to funders (Feature 8.1)*

  The ideal performance regime should be coherent and aligned at every stage from end-users to funders, across all contractual boundaries. Alignment should include, where possible, the metrics used to measure performance and performance targets. However, as the performance regime is only a small part of the wider contractual and regulatory framework of the industry, it is recognised that this may not be possible.

- *Reflect end-user needs (Feature 8.2)*

  The regime should take into account the impact of delays or cancellations on an end-user's entire rail journey. For example, their journey may be made up of more than one train service or just part of a train service's complete journey.

- *Encourage joint industry working to optimise whole-industry performance (Feature 8.3)*

  The regime should incentivise parties to work together to improve performance. Joint working may include taking actions to reduce secondary delay and also maximise positive end-user outcomes (e.g. additional stops for one operator to help another recover their service).

  The regime should support business cases to improve performance, particularly, where one party's costs may increase but overall there is a net industry benefit.

- *Facilitate trade-offs between performance, traffic volumes, and cost (Feature 8.4)*

  As traffic on the network increases, performance levels are likely to decrease because disruption will impact more train services. The regime should support the industry in making trade-offs between performance, traffic growth and higher expenditure.

- *Facilitate the delivery of industry outputs and aims over both the short and long term (4.21)*

  The regime should, at a minimum, not prevent the delivery of the industry's short term and long term outputs and aims. Whilst parts of the charges and incentives regime may be more focused on the long term outputs, e.g. funding enhancement projects, this should not prevent the delivery of day-to-day outputs, e.g. punctuality of existing rail services.

10. Perverse incentives and unintended consequences

During RDG's work, there was **general consensus** that the regime should:

- *Be effective at all levels of performance (Feature 8.8)*

  Any incentive properties included within the regime should act on parties regardless of the level of performance.

- *Not be overly sensitive to relatively small changes in industry outputs (Feature 4.19)*

  It is not favourable to have a regime that is highly geared, i.e. results in significant differences in financial payments from small changes in industry outcomes. For example, a small change in train performance should not lead to significant changes to payments between Network Rail and train operators.

11. Other aspects of the regime

During RDG's work, there was **general consensus** that the regime should:

- *Facilitate accurate and efficient attribution of the root causes of delays and cancellations (Feature 8.5)*

  The regime should enable the industry to develop a robust data-set of the root causes of unplanned disruption, which can help identify, and then tackle, those issues. This data-set should distinguish between the causes of primary and secondary delay so that this information can inform business cases for addressing the causes of unplanned disruption.

  - *Be straightforward, transparent, and readily understandable at the point of use by all parts of the industry and broader stakeholders (Feature 4.4)*

    The regime should provide clear incentives on industry parties, i.e. where the impact of a decision is well understood. A straightforward regime can include complex modelling of key variables, provided these lead to a straightforward and easy-to-use framework, e.g. price lists, and the underlying modelling methodology is sufficiently transparent.

    A regime that is understandable to broader stakeholders should minimise circumstances where the industry is misrepresented (e.g. a lack of understanding about the difference between passenger compensation and compensation to train operators for disruption).

    For example, with respect to the performance regime, it is important to understand any differences in approach to calculating Schedule 8 payment rates for freight operators and passenger operators.